

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RICHARD DENSON,

Plaintiff,

v.

CLARK COUNTY, *et al.*,

Defendants.

2:10-cv-00525-RCJ-LRL

O R D E R

Before the court are plaintiff's Motion to Order NAPHCARE to Copy and Send All of Plaintiff's Medical Records (#16) and Motion to Inspect and/or Preserve and Copy All Evidence in Plaintiff's Criminal Case and Have Said Evidence Sent to Plaintiff (#17), to which defendants filed Oppositions (#21) and (#20), respectively. No replies were filed.

Through his motion (#16), plaintiff asks the court for an order requiring defendant, NaphCare, to provide plaintiff with a copy of his medical file.¹ Plaintiff "submits [Motion (#17)] to obtain, perserve [Sic.], copy all evidence in plaintiff's criminal case." Insofar as plaintiff's motions are essentially motions to compel, they are premature and must be denied.

Before a party may file a motion to compel pursuant to Fed.R.Civ.P. 37, that party must first serve a discovery request on the party from whom discovery is sought. For example, Rule 34 provides the procedure to request documents. If a response to a proper request for discovery is unsatisfactory, the requesting party must then meet and confer with the other party to try and resolve the issue without court intervention. *See* Fed.R.Civ.P. 37; *see also* Local Rule 26-7. Only if the parties are not able on their own to reach a satisfactory result may the requesting party file a motion to compel discovery. *See id.* Pursuant

¹Despite its opposition to the motion (#16), defendant NaphCare stated that it would provide plaintiff with a copy of his medical records under separate cover as a courtesy. Opp'n (#21) at 3.

1 to Fed.R.Civ.P. 37(a)(1) and LR 26-7(b), the party filing a motion to compel must include a certification
2 that it has in good faith met and conferred with the person or party failing to make disclosure or
3 discovery in an effort to obtain the discovery without court action.

4 Accordingly, and for good cause shown,

5 IT IS ORDERED that plaintiff's Motion to Order NAPHCARE to Copy and Send All of
6 Plaintiff's Medical Records (#16) is denied.

7 IT IS FURTHER ORDERED that plaintiff's Motion to Inspect and/or Preserve and Copy All
8 Evidence in Plaintiff's Criminal Case and Have Said Evidence Sent to Plaintiff (#17) is denied.

9 DATED this 1st day of March, 2011.

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12 **LAWRENCE R. LEAVITT**
13 **UNITED STATES MAGISTRATE JUDGE**
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